IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 14961 of 2005.

Date of decision : January 15, 2007.

Karam Singh Saini,

.....Petitioner

through Mr.D.C.Dhaula, Advocate

v.

State of Punjab & others

.....Respondents

through Mr.Sanjiv Sharma, Addl.A.G.Punjab
Mr.L.M.Suri, Sr. Advocate, with
Ms.Radhika Suri, Advocate,

CORAM : HON'BLE MR.JUSTICE VIJENDER JAIN, CHIEF JUSTICE
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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By way of this petition, allegedly filed in public interest, the petitioner prays for the issuance of a writ in the nature of certiorari for quashing the order, dated 12.8.2005 (Annexure P-1), passed by the Principal Secretary, Local Government Punjab, Chandigarh, as also for the issuance of a writ in the nature of mandamus directing the respondents not to misuse

public land/property and to restrain respondents No.1 to 6 from leasing out public land to respondents No.7 to 12 or any other person as the land in question is shamlat deh and belongs to proprietors of the village and Gram Panchayat Bhabat, now Nagar Panchayat, Zirakpur.

Before we proceed to examine the matter on merits, it would be necessary to notice a few relevant facts.

Col. D.S.Vohra, now deceased, a renowned name in the field of prosthetics, was trained in Germany and England. He founded the Artificial Limbs Centre in Pune in 1948. After retirement from the Army, he was invited by the Punjab Government to set up a Prosthetic Centre in Zirakpur. In 1972, Gram Panchayat Bhabat, with encouragement from the State Government, passed a resolution, leasing out land measuring 31 kanals 10 marla, to Col. D.S.Vohra, to set up a Prosthetic Centre. This lease was granted for a period of 99 years at a nominal rent of Rs.2000/- per annum, and was duly registered with the Sub Registrar, Kharar on 6.6.1972. Thereafter, a complex was constructed on this land and the Prosthetic Centre known as "Nevedac Prosthetic Centre" came into existence. This Centre has provided artificial limbs to a large number of people and has been recognized by the Government of India as well as by the Governments of Punjab and Haryana for providing free service to the poor, at subsidized rates. The Centre provides rehabilitation and artificial limbs to disabled individuals. It has treated more than 60,000 patients including patients from places as afar as Sri Lanka, Pakistan and Afghanistan. For his service to the disabled, Col. Vohra was conferred with Padma Shri, and received numerous national and international awards. His death in the year 1998, led to a dispute between his legal heirs, who have been arraigned as

respondents No.7 to 12. This dispute, between respondents No.7 to 12, appears to be the genesis of the present petition.

The petitioner claims that prior to the lease of land in 1972, the consent of the proprietors of village Bhabat was not obtained. The land was being used for common purposes and was, thus, illegally leased by the Gram Panchayat. It is further contended that as the land is being misused by the legal heirs of Col. Vohra, the impugned order, renewing the lease, be set aside.

We have heard learned counsel for the parties and perused the paper book and are convinced that this petition is a glaring example of the malady that has come to pervade the field of public interest litigation. Clothing their personal causes, with a cloak of "public interest", unscrupulous litigants approach Courts for issuance of high prerogative writs. These motivated petitions, ostensibly filed in public interest, cause immeasurable harm to public causes and erode the credibility of public interest litigations. Such a practice must be deprecated, discouraged and stopped. The petitioner has no record of public service or of ever having raised any public cause or issue. His claim that he is a proprietor of village Bhabat, now merged with Nagar Panchayat, Zirakpur, remains unsubstantiated. Even otherwise, the land, having vested in the Nagar Panchayat, Zirakpur, the petitioner has no right, title or interest therein. The petitioner's public spirited refrain that the land has been misused, has been found to be incorrect, as is apparent from the impugned order. Nothing has been placed before us to cast any doubt as to the correctness of the facts, narrated in the impugned order.

The impugned order, whereby the lease has been renewed in

favour of all the legal heirs of Col. Vohra, reveals that Nagar Panchayat, Zirakpur, considering the request of V.J.S.Vohra-respondent No.7, who, for reasons that are not far to seek, namely, his dispute with the other legal heirs, prayed for extension of lease qua 5 kanals out of 31 kanals, alleging that the other land was being misused by the Nevedac Prosthetic Centre. The Nagar Panchayat, vide resolution dated 15.7.2004, resolved that lease be extended with respect to 5 kanals and the remaining lease be retrieved. On receipt of this resolution, the Chief Town Planner (L.G) was directed, by the Government, to inspect the land and disclose the true user thereof. The Chief Town Planner (LG), after a physical verification, carried out in the presence of the Executive Officer of the Nagar Panchayat, submitted a report that no part of the land was used for commercial activity. Infact, the Executive Officer, Nagar Panchayat, Zirakpur, vide letter, dated 29.7.2005, confirmed that the land was used by the Nevedac Prosthetic Centre as a workshop, clinic, ward rooms, ladies wards, canteen, car park, vocational training centre, gobar gas plant, tubewells, kitchen for outstation patients and building for outdoor patients. Buildings had also been constructed for staff quarters. On the basis of the aforementioned reports, the Principal Secretary to the Government of Punjab, Department of Local Government, vide the impugned order, concluded that the land, leased out to the Nevedac Prosthetic Centre, was not being misused and, therefore, annulled the resolution, passed by the Nagar Panchayat and renewed the lease for another 30 years on the terms and conditions, as prevailing in 1972.

It would be necessary to reproduce an extract of the impugned order so as to place the present controversy in its true perspective. It reads as follows :-

"The record also reveals that the matter of arbitration between Lt. Col. K.J.Vohra and others vs Nevedac Prosthetic Centre and others, justice S.S.Sodhi, Arbitrator held that the parties are now agreed that a directions be issued to the concerned authorities namely Nagar Panchayat, Zirakpur. Secretary Local Government, Punjab and Chief Secretary, Punjab Government to renew the lease in the name of all legal representatives of late Col. Darshan Singh Vohra and the lease be renewed only in favour of the legal representatives of Lt. Col. Darshan Singh Vohra, this order of the Arbitrator was further ratified by the Court of Additional District Judge, Chandigarh. The matter of succession in fact already stood settled with the order of the Court dated 3.6.2002, where the Court had established the legal heirs of Late Col. Darshan Singh Vohra.

Surprisingly, Nagar Panchayat, Zirakpur considering the request of one of the legal heir of Col. D.S.Vohra, namely, Shri V.J.S Vohra, who had requested for extension of lease of only 5 kanals of land, has passed Resolution No.14/26, dated 15.7.2004, thereby resolving that lease period may only be extended in respect of 5 kanals of land and the possession of remaining 26 kanals 10 marlas of land may be retrieved as the remaining land is not being used for Prosthetic and Godowns have been

constructed thereon, which have been given on rent to private companies.

On receipt of the proceedings of the meeting, dated 15.7.2004 of the Nagar Panchayat, Chief Town Planner (L.G) was directed to bring on record the true use of the land. The CTP (LG) made physical inspection, along with Executive Officer of Nagar Panchayat and he has also prepared site-plan showing the existence of buildings constructed at site and this shows that no part of land is used for commercial activity. In fact, the Executive Officer, Nagar Panchayat, Zirakpur also in his letter dated 29.7.2005 and other record, confirm that the entire land is under use of Nevedac Prosthetic centre as, apart from building of Prosthetic workshop and Clinic wing, Ward Rooms, ladies Wards, Canteen, Car Park, Vocational Training, Gobar Gas Plant, Tubewells, Kitchen for outstation patients and building for day of out door patients, there exist buildings for staff quarters. Thus, this report confirms that no part of the land in question is used for commercial purposes, as is indicated in the Resolution No.14/46 dated 15th July, 2004."

The petitioner has failed to establish any misuse of land, violation of the terms of the lease or any illegality in the impugned order. As noticed herein above, this petition is a mala fide attempt to thwart the functioning of the Nevedac Prosthetic Centre. Having failed in his attempt to scuttle the functioning of the Prosthetic Centre, with the

assistance of the Nagar Panchayat, Zirakpur, respondent No.7 appears to have adopted this subterfuge of filing this petition, claiming public interest. Finding no merit in the present petition, the same is dismissed. It would, however, be open to the State Government to inspect the land, leased out to the Centre, from time to time, so as to ensure that the said land is not misused in any manner.

(VIJENDER JAIN)
CHIEF JUSTICE

(RAJIVE BHALLA)
JUDGE

January 15, 2007.
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